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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|------------------------|------------------|
| 10/085,913 | 02/27/2002 | James J. Jakubowski | 43231C | 3329 |
| 109 | 7590 | 11/18/2003 | EXAMINER | |
| THE DOW CHEMICAL COMPANY INTELLECTUAL PROPERTY SECTION P. O. BOX 1967 MIDLAND, MI 48641-1967 | | | NILAND, PATRICK DENNIS | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 1714 | |

DATE MAILED: 11/18/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/085,913 | JAKUBOWSKI ET AL. | |
| | Examiner | Art Unit | |
| | Patrick D. Niland | 1714 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 8/4/03.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 7,9 and 13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 7,9 and 13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

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1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the A person shall be entitled to a patent unless –

effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 7, 9, and 13 are rejected under 35 U.S.C. 102(e) as being anticipated by US Pat. No. 5859111 Kukkala et al..

Kukkala discloses the instantly claimed compositions at column 4, lines 12-63, with lines 12-27 encompassing the use of no organic solvent, lines 38-49 encompassing the instantly claimed anionic surfactants, and lines 33-38 encompassing the instantly claimed chain extenders, column 5, lines 1-8, which encompasses the instantly claimed solids content; column 6, lines 1-9, which encompasses the instantly claimed solids content and particle size; column 7, lines 30-46, which encompasses the instantly claimed chain extenders; column 16, lines 30-39, which shows the benefits of smaller particle sizes; and the remainder of the document.

4. Claims 7, 9, and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Pat. No. 5859111 Kukkala et al..

Kukkala discloses the instantly claimed compositions at column 4, lines 12-63, with lines 12-27 encompassing the use of no organic solvent, lines 38-49 encompassing the instantly claimed anionic surfactants, and lines 33-38 encompassing the instantly claimed chain extenders, column 5, lines 1-8, which encompasses the instantly claimed solids content; column 6, lines 1-9, which encompasses the instantly claimed solids content and particle size; column 7, lines 30-46, which encompasses the instantly claimed chain extenders; column 16, lines 30-39, which shows the benefits of smaller particle sizes; and the remainder of the document. It would have been obvious to one of ordinary skill in the art at the time of the instant invention to use the instantly claimed combinations of parameters and ingredients in the latex of the patentee because they are encompassed by the patentee and would have been expected to give a latex having the properties disclosed by the patentee.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patrick Niland whose telephone number is (703) 308-3510. The examiner can normally be reached on Monday to Friday from 9:30 to 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor,

Vasu Jagannathan, can be reached on (703) 306-2777. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

pn

November 16, 2003



Patrick Niland
Primary Examiner
Art Unit 1714